

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

### REMARKS

The Office Action mailed, June 15, 2001 considered claims 1-42.<sup>1</sup> By this paper, claims 1, 11, 16-18, 20, 21, 27-32 and 42 have been amended and claims 43 and 44 have been added<sup>2</sup> such that claims 1-44 are pending. Claims 1, 11, 21 and 32 are the only independent claims. Reconsideration is respectfully requested.

#### **Claim Objection**

The Office Action objected to claim 30 because of grammatical errors. Applicants thank the Examiner for his careful review of the claims. Claim 30 has been amended to correct the specified error, changing the term "segment" to "segments".

#### **Claim Rejections**

The application is generally directed towards providing banner advertisements when video advertisements from a video provider are unavailable. This allows for efficient use of advertising space on a display, such as from a set-top box. It will be noted that the claimed embodiments recite methods that are performed from the perspective of *a computing system where the video advertisements and banner advertisements are received and displayed*. This is in direct contrast to the art cited by the Office Action which discloses video sources such as cable headends, cable TV centers, and the like, which provide the media content and perform related, but different, functionality.

Applicants' invention, as claimed for example in independent method claim 1, relates to transitioning to a video advertisement *from a video provider* by displaying a related banner

<sup>1</sup> Claim 30 is objected to. Claims 1 and 5-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over "near video on demand" (NVOD), as described by Hendricks et al. (U.S. Patent No. 6,201,536) and Imajima et al. (U.S. Patent No. 6,211,901). Claims 2-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hendricks and Imajima, and also over Yuen et al. (U.S. Patent No. 6,687,906). Claims 11, 14-24, 27-35, and 38-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Imajima, as is described above, and also over Colbath (U.S. Patent No. 6,728,776). Claims 12-13, 25-26, and 36-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Imajima and Colbath, and also over Yuen. Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last response, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

<sup>2</sup> Support for the amendments and new claims can be found throughout Applicants' specification, but particularly at paragraphs [042]-[045], [059] and [064]-[079].

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

advertisement *at a computing system*. The method includes performing acts *at the computing system* including: receiving at the one or more video streams containing a plurality of real-time video advertisements which begin at a plurality of distinct times; generating, on the display device, a display screen having an advertisement region in which one or more real-time video advertisements are to be displayed; determining that only a tail end of a current real-time video advertisement contained within the one or more video streams is available, in that a begin time for the current real-time video advertisement has passed; determining that a next real-time video advertisement is not yet available for display, in that a begin time for the next real-time video advertisement has not yet been reached; identifying a banner advertisement having subject matter that is related to that of at least one of the real-time video advertisements; while waiting for the begin time of the next real-time video advertisement, displaying the banner advertisement within the advertisement region; determining that the next real-time video advertisement is available for display, in that the begin time for the next real-time video advertisement has been reached; and at the begin time of the next real-time video advertisement, replacing the banner advertisement with the next real-time video advertisement.

Applicants' invention, as claimed for example in independent method claim 11, relates to displaying video advertising content from a *video provider* to a viewer *at a computing system* by way of the display device. The method includes acts *at a computing system* including: receiving one or more video streams containing a plurality of video advertisements; receiving at least one trigger from a first video stream communicating with the processor, the at least one trigger defining a begin time when a first video advertisement in the first video stream is to be displayed, on the display device, within an advertisement region of a display screen; determining that the first video advertisement is not yet available for display; identifying a first banner advertisement having subject matter that is related to that of the first video advertisement; displaying the first banner advertisement within the advertisement region of the display device; analyzing the at least one trigger to identify the begin time when the first video advertisement is to be displayed; determining that the begin time when first video advertisement is to be displayed has been reached; determining that the first video advertisement is available for display; and upon determining that both the begin time has been reached and determining that the first video advertisement is available for display, transitioning between the first banner advertisement and

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

the first video advertisement to display the first video advertisement within the advertisement region.

Applicants' invention, as claimed for example in independent computer program product claim 21, relates to a computer product for implementing a method for displaying video advertising content *from a video provider* to a viewer *at a computing system*, the video advertising content selectable from at least one video advertisement content deliverable upon at least one video stream. The computer program product includes a computer readable medium carrying computer-executable instructions for implementing the method *at the computing system*, and the computer-executable instructions comprise: program code means for receiving one or more video streams containing a plurality of video advertisements; program code means for receiving a first video advertisement from a first video stream of the at least one video stream communicating with the processor, the first video advertisement comprising video advertising content and at least one trigger defining time information regarding the video advertising content; program code means for generating, on the display device, a display screen having an advertisement region in which the video advertising content is to be displayed; program code means for analyzing the time information of the at least one trigger to identify a begin time when the video advertising content is to be displayed upon a display device within an advertisement region of a display screen; program code means for determining that the video advertising content is not yet available for display; program code means for identifying a first banner advertisement; program code means for displaying the first banner advertisement within the advertisement region of the display device; program code means for determining that the begin time when the video advertising content is to be displayed has been reached; program code means for determining that the video advertising content is available for display; and program code means for transitioning between the first banner advertisement and the advertising content of the first video advertisement, in response to analyzing the trigger, determining that the begin time when the video advertising content is to be displayed has been reached, and determining that the video advertising content is available for display, in order to display the first video advertising content within the advertisement region.

Applicants' invention, as claimed for example in independent method claim 32, relates to a method for targeting a viewer with video advertising content *from a video provider*, based upon the viewer's preferences. The method includes *acts at a computing system* including: receiving

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

one or more video streams containing a plurality of video advertisements; retrieving preference data from a data source, the preference data representing viewing selections of the viewer; identifying a plurality of video advertisements deliverable to the processor by a plurality of video streams, each video advertisement of the plurality of video advertisements comprising video advertising content, at least one trigger, and a video content identifier; analyzing each of the plurality of video streams to identify at least one video advertisement of the plurality of video advertisements in compliance with the preference data based on the video content identifier of the at least one video advertisement; generating a display screen having an advertisement region in which the at least one video advertisement is to be displayed; determining that the at least one video advertisement is not yet available for display; identifying a first banner advertisement in compliance with the preference data; while waiting for the at least one video advertisement to become available, displaying the first banner advertisement within the advertisement region of the display device; analyzing the at least one trigger to identify a begin time when the at least one video advertisement is to be displayed; determining that the begin time when the at least one video advertisement is to be display has been reached; determining that the at least one video advertisement is available for display; and in response to analyzing the video content identifier of the at least one video advertisement, analyzing the at least one trigger to identify the begin time, determining that the begin time has been reached, and determining that the at least one video advertisement is available for display, transitioning between the first banner advertisement and the least one video advertisement in order to display the at least one video advertisement when the at least one video advertisement is available for display.

The references cited by the Office Action fail to disclose or suggest the various elements recited by the independent claims as being performed at a computing system such as that set forth in the claims of the present application.

*Hendricks* is directed to systems and methods for providing various television services to a set-top terminal. Such services include near video on demand (NVOD), virtual video on demand (VVOD), and various other services. Abstract. *Hendricks* does indeed teach a NVOD system that provides staggered start times for a program. Col. 34, lines 32-59. However, in the system disclosed by *Hendricks*, selection of the video to display and any intervening content between videos is clearly controlled by a centralized headend and not by a subscriber or a set top terminal. See e.g. Figure 5. The headend delivers content to a set top terminal by issuing

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

commands to tune the set top terminal to a channel where data selected by the headend is being transmitted. For example, *Hendricks* discloses that "the network management CPU 260 prompts...the file server 215 to select and spool the appropriate data that can be sent to the set top terminal 220 in order for the set top terminal 220 to tune or switch to the proper channel displaying the program with the nearest start time." Col. 34, lines 47-52.

*Hendricks* further discloses that a preview may be displayed prior to a program selected by a user. Col. 19, line 45-Col. 20 line 62. *Hendricks*' preview, however is not chosen at the set top box, but rather by whatever is being displayed on a preview channel. Thus, *Hendricks* fails to disclose at least elements recited in the claims directed towards determining at the computing system that a video advertisement is not yet available, and elements directed towards identifying and displaying at the computing system banner advertisements until a real-time video advertisement is available.

Applicants also note that *Imajima* fails to compensate for the deficiencies of *Hendricks*. In particular, *Imajima* illustrates a system similar to that of *Hendricks* in that the system of *Imajima* includes a centralized CATV system that determines what video content and content before the video content will be displayed. See e.g. Figure 11 at 100. The system of *Imajima* is directed towards choosing between near video on demand (NVOD) and full video on demand (FVOD). NVOD broadcasts video at different channels at a time interval. Col. 1, lines 46-52. FVOD allows a subscriber to immediately request and begin viewing a program. Col. 1, lines 36-38. Illustrating the centralized nature of the *Imajima* system, the disclosure states that the NVOD service...notifies the [set top box] of the receiving channel for the video data...[and] provides other video data to the subscriber until the start of the NVOD service...[where] [t]he provided video data can be information about the latest programs, community information, and variations of other data. Col. 15, line 63-Col. 16, line 5. Thus, *Imajima* illustrates centralized selection of video programming and programming around the video programming and not the identification, and displaying elements at the computing system, as recited by the claims of the present application. Thus, *Imajima* does not disclose or suggest what is recited by the claims of the present application, alone or in combination with *Hendricks*.

*Yuen* also fails to compensate for the deficiencies of *Hendricks* and *Imajima*. In particular, *Yuen* was cited by the Office Action as showing an electronic program guide which displays a currently selected video program and which comprises a background region

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

comprising one or more banner advertisements. However, *Yuen* clearly fails to disclose or suggest, among other things, determining *at the computing system* that a next real-time video advertisement is not yet available for display, *in that a begin time for the next real-time video advertisement has not yet been reached*, or alternatively analyzing *at the computing system* the at least one trigger to identify the begin time when the first video advertisement is to be displayed and determining at the computing system that the begin time when first video advertisement is to be displayed has been reached. *Hendricks* and *Imajima* also fail to disclose or suggest these things.

Finally, *Colbath* also fails to compensate for the deficiencies of *Hendricks*, *Imajima*, and *Yuen*. In particular, *Colbath* is cited as showing a waiting period before enough of video program can be received before it is displayed. The office action asserts that *Colbath* teaches, during this waiting period, displaying an alternative set of data. However, even assuming *arguendo* that this is true, it will be noted that the claims of the present application require that the method includes determining at the computing system that a next real-time video advertisement is not yet available for display, *in that a begin time for the next real-time video advertisement has not yet been reached*, or alternatively analyzing at the computing system the at least one trigger to identify the *begin time* when the first video advertisement is to be displayed and determining at the computing system that the begin time when first video advertisement is to be displayed has been reached. The language of *Colbath* actually appears to be in contrast with these claim elements insofar as *Colbath* illustrates that video decisions are based on data being available and not on begin times. See *e.g.* Col. 1, 38-41, Col. 2, lines 14-18, and Col. 3, lines 49-53.

For at least the foregoing reasons, Applicants respectfully submit that the combination of *Hendricks*, *Imajima*, *Yuen*, and *Colbath* fail to disclose or suggest what is recited by the claims of the present application. Accordingly, for at least these reasons, the rejections of record are now moot, such that it is not necessary to address each of the other assertions of record in the last response. Nevertheless, Applicants reserve the right to challenge any of said assertions in the future, including any official notice. Furthermore, although the foregoing remarks are primarily directed to the independent claims, it will be appreciated that the dependent claims should also be found allowable over the art of record for at least the same reasons as provided above.

Application No. 10/000,150  
Amendment "C" dated August 26, 2005  
Reply to Office Action mailed June 15, 2005

Although it is not necessary to address each of the dependent claims, it will be noted that new claims 43 and 44 further distinguish the claimed invention from the art of record inasmuch as they recite embodiments in which the act of replacing the banner advertisement with the next real-time video advertisement at the computing system includes the use of stored video, which was stored after being received from the video provider (claim 43) or that is replaced as the video advertisement is delivered via a data stream (claim 44).

For at least the foregoing reasons, Applicants respectfully submit that claims 1-44 are now in condition for prompt allowance. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 29 day of August, 2005.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 28,651  
JENS C. JENKINS  
Registration No. 44,803  
J. LAVAR OLDHAM  
Registration No. 53,409  
Attorneys for Applicant  
Customer No. 047973

RDN:JCJ:JLO:ppa  
PPA0000000843V001